

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 23-4947-MWF(RAOx) Date: September 21, 2023

Title Priscilla Iniguez, et al. v. United States of America, et al.

Present: The Honorable: MICHAEL W. FITZGERALD, United States District Judge

Rita Sanchez

Deputy Clerk

Not Reported

Court Reporter / Recorder

Attorneys Present for Plaintiffs:
Not Present

Attorneys Present for Defendants:
Not Present

Proceedings: (IN CHAMBERS) SECOND ORDER TO SHOW CAUSE

On September 12, 2023, the Court filed an Order to Show Cause (the “OSC”) re dismissal for lack of prosecution. (Docket No. 7). In response to the OSC, Plaintiffs filed two Investigative Due Diligence Affidavits (the “Affidavits”) attesting to the inability to serve the United States of America and the United States Marshals Service on September 15, 2023. (Docket Nos. 8 and 9). Plaintiffs also filed an Opposition to OSC; Declaration of Kenneth C. Yeager (the “Opposition”). (Docket No. 10).

The Court notes that Plaintiffs did not attempt service on Defendants United States of America and United States Marshals Service until after receiving the OSC. The Court also notes that Plaintiffs did not attempt service pursuant to Federal Rule of Civil Procedure 4(i), which is required to properly serve the United States and its agencies.

Attached as Exhibit A to counsel’s Opposition are two letters from the United States Department of Justice, United States Marshals Service, Office of General Counsel (the “USMS Letters”), dated March 21, 2023. The USMS Letters deny Plaintiffs’ administrative tort claims against the United States, and advise that suit may be filed in the appropriate U.S. District Court no later than six months after the date of mailing of the denial letters. (Exhibit A to Opposition).

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The Court notes that the USMS Letters include a reference to a previously filed action, CV 22-8502-DMG(PVCx) (the “2022 Case”). However, no Notice of Related Cases was filed in this action, as required, to inform the Court of the previously filed case.

Although Plaintiffs’ counsel has requested dismissal without prejudice, the Court declines to do so at this time. The USMS Letters provide that suit may be filed no later than six months after the date of mailing – March 21, 2023 -- the denial.

Plaintiffs are again **ORDERED** to **SHOW CAUSE** why this action should not be dismissed for lack of prosecution. In response, Plaintiffs must file Proofs of Service of the Summons and Complaint. The Proofs of Service must reflect proper service pursuant to Federal Rule of Civil Procedure 4(i) regarding service on the United States and its agencies. The Proofs of Service must be filed no later than **OCTOBER 13, 2023**.

No oral argument on this matter will be heard unless otherwise ordered by the Court. *See* Fed. R. Civ. P. 78; Local Rule 7-15. The Order will stand submitted upon the filing of the response to the Order to Show Cause. Failure to respond to the Order to Show Cause by **OCTOBER 13, 2023** will result in the dismissal of this action.